

Water Wrights



Buena Vista Water Storage District January 15, 2020

By Don A. Wright

The Buena Vista Water Storage District held its board of directors meeting on Wednesday, January 15, 2020 at its Buttonwillow headquarters. The room was packed, more than any other meeting I've attended here. It was because of SGMA. Buena Vista has a different view of the Kern Sub Basin coordination agreement. BV wants a one year agreement and the rest of the Sub Basin is shooting for a five year agreement. So, this should be an interesting meeting. General Manager **Tim Ashlock** observed it could be a long meeting based on the self-introductions alone.

At the stroke of 8:30am Chairman **John Vidovich** called the meeting to order. The first item was the minutes and they were approved without comment. The consent calendar was next and there was an item pulled from the calendar; 8d dealing with fallow land.



Controller **Marybeth Brooks** gave the financial report in a succinct manner and it was approved. M&O assessments were up to \$42 and the board approved. The board also adopted a 401 retirement plan for staff and employees. There is an annual opportunity for BV to get Central Valley Project water, 215 Water and the board approved pursuing that supply. The water supply report was next and the recommendation was .2 a/f per acre but a start to the water run was not established.

The item pulled from the consent calendar was the fallow land but before that was two items, 10 a & b dealing with the James Water Bank JPA will be tabled until next month. The agenda has jumped ahead to 12. The BVGSA coordination agreement.

The Coordination Agreement

Dustin Cooper, special counsel to BV said the hang up on the coordination is the way overdraft will be addressed. He said there are data gaps and much data will need to be collected. That issue has not been resolved. The Kern Groundwater Authority sent a proposed coordination agreement to BV last month. The offer was to allow amendments within the first five-year period. BV countered with a one-year period. So far only Henry Miller WD has responded and indicated the one-year proposal wasn't acceptable. Cooper said the issue isn't the length of term it's the process adopted to deal with overdraft. He told the board even if BV accepts the agreements that doesn't mean DWR will accept it. He said he's dealing with many GSAs throughout the state and finds this coordination agreement as light. Cooper is a partner with **Paul Minasian's** firm in Chico; the same firm that represents the San Joaquin River Exchange Contractors. Vidovich asked what issues DWR would find

with a one-year agreement. Cooper said if the other GSAs in the sub basin will go along there shouldn't be a problem. He thought the shortened length make signal to DWR the sub basin will be sending in a more complete agreement soon and that could settle them down. He cited the Kaweah Sub Basin as an example of a strong coordination agreement.

Director **Jeff Wyrick** said DWR wants a two-year review period and has indicated to him a one-year agreement wouldn't be acceptable. Ashlock said he spoke with DWR and they said it is possible to review them separate. Director **Terry Chicca** asked Cooper about this. Cooper said when SGMA was being written the state didn't want multiple GSPs but settled for one point of contact and a combined GSP. Wyrick said the coordination agreement uses the same modeling and data sets. He said it isn't up to BV to determine Semitropic Water Storage District's pumping; that is up to DWR to determine. There are concerns about over pumping and BV and Semitropic share a 12-mile border but to jettison the agreement could put the entire sub basin in jeopardy.

Vidovich asked Cooper to define what he meant by a light agreement. Cooper said the agreement should look almost like an adjudication. The Kern Sub Basin's agreement doesn't look like this. It may be acceptable but the compromise was between a 20-year term or a five-year term. BV wants a one-year agreement to be replaced with a longer term. Vidovich asked Cooper if BV would be at risk to sign the five-year agreement. Cooper said the policy call for the board is recognizing Kern has an overdraft problem and is in the state's gunsights. Should BV go soft and look for continuing developments or as a signatory to a contract work to force other signatories to agree with BV's terms.

Wyrick asked if BVGSA has any jeopardy from water rights loss or other problems if the sub basin goes into probation under SGMA. Vidovich said it would be suicide to throw the sub basin in probation and BV has to sign a coordination agreement. He said he was surprised Semitropic was offended that its plan wasn't up to snuff. He said in his opinion Semitropic's obligation to Met and Santa Clara WD is a sub basin wide obligation. His concern is BV could end up having to share that obligation and he conceded this is a scary situation. Wyrick said the ultimate fall back is adjudication and no one wants that. He doesn't believe anything will be solved in a year.

Vidovich asked Cooper for advice and Cooper said a one-year agreement can be extended annually. He said no matter what this board does this a risk of probation. He said the state hasn't the manpower to place too many GSAs in probation and he believes the short term could actually benefit the sub basin.

Vidovich said everyone is part of the Semitropic family and has land. The first member of the public was Semitropic GM **Jason Gianquinto** 377,000 a/f overdraft and he has 178,000 a/f overdraft. That figure doesn't include any banked water. He said Semitropic's GSP is so proactive it will be retiring 40,000 acres. I believe I got that figure correct. He said BV needs to make comments in accordance to the five-year SGMA comment and review schedule. He said his board will take these comments into consideration and is willing to endeavor in good faith. Chicca said he's sympathetic but Semitropic can't kick the can. That didn't sit well with Semitropic Chair **Dan Waterhouse**. Gianquinto said Semitropic has made the most investment in getting the truth. It's the only GSA in the sub basin that hasn't had to revise its overdraft figures. He said the cheapest way to come into compliance is to curtail pumping immediately but that isn't a reasonable response. He said increasing surface supplies is the first management action. Semitropic Director **Phil Portwood** spoke next. He said he's been on the board 35-years and has been working the water banking project since then. Semitropic's plan and efforts have been ongoing way before BV.

Portwood then handed out a document showing the resumes of the five State Water Resources Control Board and told the BV board could end up putting the Kern Sub Basin in their hands.

Semitropic Chair Waterhouse said he believes the attorneys have not served the growers of BV well and may be biased towards Vidovich's opinion.

Director **Tom Toretta** also owns land in BV and encouraged the board to go for the five-year agreement.

Amanda Derby of DWR was present and said she is available for questions. She said should the one-year plan expire without a renewal it will be most likely viewed as being out of compliance since a coordination agreement is part of a GSP. Wyrick said a five-year agreement would yield more data and would require an updated coordination agreement. Derby said the coordination agreement is to make the process local. DWR won't be providing legal opinions. BV attorney **Isaac St. Lawrence** said the law states if a GSA withdraws from a coordination agreement the rest of the agreement can go on in full effect. Waterhouse said Semitropic's GSP was one of the first released and received no comments from BV. He said there has been some dialog and changes were made to adjust to BV's concerns. At this point it is too late renegotiate; 97 percent of the GSAs in the Kern Sub Basin have signed on to the coordination agreement. Wyrick said the coordination agreement is only about using the same data sets and not other GSAs' plans.

Other growers spoke up and to the last man urged the board to sign the five-year agreement. Grower **Larry Antongiovanni** wanted to know what was lacking in Semitropic's plan. **Ted Page**, Kern County Water Agency Director said this action isn't directed to just Semitropic. There are many other districts over-drafting. He said the Kern Groundwater Authority started from lawsuits between the Kern Water Bank and Rosedale Rio Bravo WSD back when **Tom Clark** was alive. He said he's had calls from DWR and he's asked them to come to Kern County and help solve things. He said he's in favor of the one-year agreement as it will hold feet to the fire.

The board responded. Vidovich as first to speak and said this isn't about punishing Semitropic. But their plan includes purchasing temporary water contracts that doesn't solve anything further down the road. He thinks Semitropic needs a more aggressive demand reduction. He didn't see this in Semitropic's GSP. He said he doesn't want to offend the good people of Semitropic but he's not satisfied with the plan and thinks they should do more. He said if the board votes for the five-year plan he's ok with that but he believes the one-year option is best.

Chicca spoke and said he has spoken with Semitropic board and management. He believes they know the stakes and are working hard and can work with a five-year plan.

Wyrick said he chooses the five-year agreement because Semitropic is working to fix the problem and it wouldn't be wise to jeopardize the entire sub basin.

Director **Jules Parson** said he is in favor of the five-year plan.

Director **Larry Ritchie** said he respects Semitropic and favors the five-year agreement.

The vote was called and all the directors including Vidovich voted for the five-year agreement. And that was that.

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BUENA VISTA WATER STORAGE DISTRICT was organized in 1924 to manage the irrigation, drainage systems and water rights originally held by Miller & Lux. The district controls an average 130,000 a/f of Kern River water and approximately 21,000 a/f of supplies from the State Water Project. BVWSD is its own GSA. Board of Directors meetings are held the 3rd Wednesday of the month at district headquarters located at: 525 North Main Street, Buttonwillow, CA 93206. Phone: 661/324-1101 www.bvh20.com General Manager/Engineer: Tim Ashlock, Engineer Andrew Bell, Controller: Marybeth Brooks, Attorney: Robert Hartsock or Isaac St. Lawrence
Board-President: John Vidovich, **VP:** Terry Chicca, **Secretary:** Jeff Wyrick, Julien Parsons, Larry Ritchie